

REMARKS

This amendment is in response to the Office Action dated March 1, 2007. In order to facilitate prosecution, claims 1 – 4 are amended and claims 8 – 9 are cancelled. The remaining claims 5 – 7 and 10 – 11 now depend directly or indirectly from claim 1 which incorporates the limitations of original claims 8 – 9. Accordingly, claims 1 – 7 and 10 – 11 are in the application.

The §102(b) rejection of claims 1 – 2, 4 – 8 and 10 -11 as being anticipated by Ikegami et al (US 6,437,184) is respectfully traversed.

The Ikegami et al patent does not disclose a compound of formula (I) wherein R₅ is C₁-C₁₂alkoxy-C₁-C₁₂alkyl or heterocyclyl as required by the present claims. Anticipation connotes a substantially identical disclosure in the prior art of the claimed invention. A reference cannot anticipate under § 102 unless it discloses every element of a claimed invention so as to place a compound, composition or process in the possession of the public. In view of the foregoing, Applicants contend that the disclosure in the cited patent is inadequate to support a rejection grounded upon 35 USC § 102. Reconsideration and withdrawal thereof are respectfully requested.

The Examiner's presumption that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made is correct.

Applicants respectfully traverse the § 103 rejection of claims 1 and 3 – 11 as being obvious over the disclosure of WO 97/27173.

As noted above, claim 1 is amended by incorporating the limitations of original claims 8 – 9 in order to advance the prosecution. The WO 97/27173 publication does not disclose a compound of formula (I) wherein R₅ is C₁-C₁₂alkoxy-C₁-C₁₂alkyl or heterocyclyl. The examples on pages 23-38 of the '173 publication that are noted by the Examiner include compounds wherein R₈ and R₉ can be alkyl or together form a saturated heterocyc-N-yl. This is not a C₁-C₁₂alkoxy-C₁-C₁₂alkyl or a heterocyclyl moiety as specified in the present claims.

Structural similarity alone is not sufficient to establish obviousness. One of ordinary skill in the art cannot simply take various components and combine them without a commonality of purpose or characteristics that gives the artisan some reasonable expectation of success. In the

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present case the Examiner has not pointed to any reasonable expectation of success for one of ordinary skill to make the proposed modification. Accordingly, the requirements for a finding of obviousness have not been fulfilled. Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above amendments and remarks, Applicants submit that present claims 1 – 7 and 10 – 11 are allowable over the cited art. Withdrawal of all rejections is respectfully requested, along with issuance of a Notice of Allowance. Applicants invite the Examiner to telephone the undersigned attorney of record if the Examiner feels that the call will be beneficial to advance prosecution of the application.

Respectfully submitted,

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